



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/170183

PRELIMINARY RECITALS

Pursuant to a petition filed November 18, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Wood County Human Services – Wis. Rapids in regard to FoodShare benefits (FS), a hearing was held on December 9, 2015, by telephone.

The issue for determination is whether the Department correctly determined the petitioner's FS amount for December 2015.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED] Resolution Coordinator
Northern I.M. Consortium

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Wood County.
2. The petitioner has an ongoing FS case as a household of one person. At her November 2015 periodic review, she reported updated unearned income of \$992 monthly, which is not in dispute. Previously, her income had been reported as being \$792 monthly.
3. On November 6, 2015, the Department issued written notice to the petitioner advising that her FS would be reduced from \$193 to \$53 effective December 1, 2015. The basis for reduction was

increased income. The agency later corrected the petitioner's utility expenses. On November 24, 2015, the Department issued written notice to the petitioner advising that her FS would \$103 for December 2015. The petitioner timely appealed, and aid was continued pending appeal.

4. The petitioner has a rent expense of \$495, plus utilities (including heat). She does not pay out child support, and does not incur a dependent care expense to go to work.

DISCUSSION

The petitioner questions the correctness of the calculation of the FS allotment amount for December 2015, onward. The gross income was based on verified unearned income (Social Security and alimony), and is undisputed. The budgeting calculations here were performed prospectively. Prospective budgeting should reflect what the petitioner is likely to receive, on average, each month. *FS Wisconsin Handbook (FSWH)*, 4.1.1, viewable online at www.emhandbooks.wisconsin.gov/fsh/.

In calculating the petitioner's December allotment, the agency must follow a procedure prescribed by the federal FS regulations, and echoed in the Department's *FS Wisconsin Handbook*. The federal rule requires that the Department start with gross, rather than net, income, and allow only a limited number of identified deductions from that income. *FSWH*, 1.1.4. The regulations direct that a Standard Deduction be subtracted from income in all FS cases. 7 C.F.R. §273.9(d)(1). The Standard Deduction for a case with one to three persons is currently set at \$155, per *FS Wisconsin Handbook*, 8.1.3. Twenty percent of any earned income is then subtracted as the Earned Income Deduction; that deduction was correctly not given here. A Dependent Care Deduction is also taken if the petitioner incurred day care expenses in order to go to work, an Excess Medical Expense Deduction is subtracted for an elderly or disabled person's allowable medical expenses that exceed \$35 per month, and child support paid out garners a deduction. There is no record of the latter three expenses here. 7 C.F.R. §273.9(d)(3). An Excess Shelter Deduction can be subtracted from the income after deductions if allowable shelter expenses exceed half of that income. 7 C.F.R. §273.9(d)(6)(ii). Based on a \$495 shelter cost plus the \$458 heating utility standard, the petitioner's shelter costs totaled \$953. This did exceed half of the adjusted income (\$418.50), so the excess shelter cost of \$534.50 was deducted in the allotment calculation.

Thus, the December 2015 allotment calculation correctly looked like this:

Gross income	992.00
Minus Earned Inc. Deduction	- 00.00
Minus Excess Medical	-000.00
Minus Dependent Care	-000.00
Minus Standard Deduction	<u>-155.00</u>
Adjusted Income	837.00
Minus Shelter Deduction	<u>-534.50</u>
Net Income	302.50

The correct allotment for one person with net income of \$302.50 was \$103 in December 2015. *FS Wisconsin Handbook*, 8.1.2, p.3.

The petitioner expressed her concern that her FS allotment was not adequate to meet her needs. However, I cannot award more FS than what the rules above allow. She also expressed a concern about a possible FS overpayment from the past. If she has received FS Overpayment Notices, she may wish to file a hearing request with this office to dispute the alleged overpayments.

CONCLUSIONS OF LAW

1. The Department correctly determined the petitioner's FS allotment for December 2015.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 10th day of December, 2015

\sNancy J. Gagnon
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on December 10, 2015.

Wood County Human Services - WI Rapids
Division of Health Care Access and Accountability